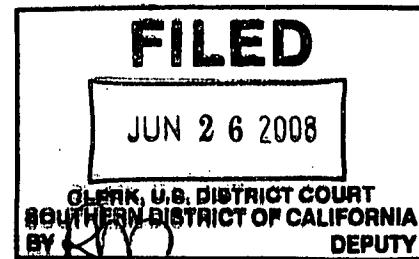


1 Darrow D. HAYGOOD V09189
 2 C.S.P Sac IV New Folsom
 3 P.O. Box 290066
 4 Represa, CA 95671
 5 IN pro se



7 United States District Court
8 Southern District of California.
9

10 D. HAYGOOD,
 11 Petitioner,
 12 V.
 13 JAMES WALKER, Warden,
 14 Respondent.

case No. 08cv0374-JAH (BLM)
"Objections to Report and
Recommendation"

16 On April, 2008, petitioner Darrow Haygood, a state prisoner,
 17 appearing pro se and in forma pauperis, filed the First Amended petition
 18 for writ of Habeas Corpus ("FAP") currently before the Court. Doc. No. 4.
 19 In its April 10, 2008 Notice Regarding Possible Dismissal of Petition for Failure
 20 to Exhaust State Court Remedies (option order), This Court informed petitioner
 21 that he had failed to allege exhaustion as to claims 1, 2, 4 and 6 of
 22 the First Amended petition. Petitioner produces proof of the exhaustion
 23 of state court remedies as to claims 1, and 2 as well as 4, and 6,
 24 starting with Superior ^{court} ~~court~~, case No; in reference to 1 and 2 here
 25 is super. ct. No. SCE 229595 Also in regards to 4 and 6, super. ct. No;
 26 SCE 229595. Appellate Court Case Number, D049464, Also in regards to
 27 4, and 6, Appellate Court Case Number, D043134. And Supreme Court
 28 Case Number, S155796 and S136036.

OK PER
COP 28

X J. Haygood V09189
In pro se
June 25, 2008

1 on september 28, 2005 I petitioner was Denied By
 2 The supreme court on ground's 4, and 6 and was advised
 3 That From the Exact Date OF my Denial which is sept 28, 05,
 4 To september 28, 2006 would Be an exact year in which my
 5 petition should Be already in the court's so my statutes of
 6 limitation's For one ~~year~~ would not Expire. Within that time
 7 petitioner was correctly composing his Habeas corpus
 8 properly so their wouldn't Be any complications. On July of
 9 2006 which is two month's Before september 28, 2006 Dead
 10 Line petitioner Filed a petition Back Down to the superior
 11 Court (Habeas Corpus) which is Claim 1 and 2 , one Being InEFFective
 12 Assistance of Trial counsel in Failing to object to the admissibility
 13 of the Tape- Recorded Interview of petitioner when Detective Mercado
 14 who informed petitioner that he was Under Arrest Did not Read
 15 miranda rights. And two, InEFFective Assistance of trial counsel in
 16 Failing to pursue Any investigation into whether petitioner had been
 17 read his miranda rights By Detective Mercado at any time prior to
 18 petitioner making statement's. These two claims was Brought
 19 Down to the superior court on writ of Habeas corpus Base on
 20 InEFFective Assistant of Appellant counsel in Failing to raise the
 21 ground's on Direct Appeal. Here petitioner presents proof of
 22 Exhaustion OF his State Remedies. The statute of limitations
 23 Does not run while a properly Filed state habeas corpus petition
 24 is pending. See Nino v. Galaza, 183 F.3d 1003, 1006 (9th Cir. 1999)
 25 But See Artuz v. Bennett, 531 U.S. 4, 8 (2000).
 26 Petitioner here By objects to Report and Recommendation.
 27
 28

X D. Haygood 109189
 In pro se

June 25, 2008

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

9

10

D. HAYGOOD,

Petitioner,

Civil No. 08cv0374 JAH (BLM)

11

12

v.

**ORDER GRANTING APPLICATION
TO PROCEED IN FORMA PAUPERIS**

13

JAMES WALKER, Warden,

Respondent.

14

15

Petitioner, a state prisoner proceeding pro se, has submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. Petitioner has \$-1.16 on account at the California correctional institution in which he is presently confined. Petitioner cannot afford the \$5.00 filing fee. Thus, the Court **GRANTS** Petitioner's application to proceed in forma pauperis, and allows Petitioner to prosecute the above-referenced action as a poor person without being required to prepay fees or costs and without being required to post security. The Clerk of the Court shall file the Petition for Writ of Habeas Corpus without prepayment of the filing fee.

21

22

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IT IS SO ORDERED.

25

DATED: April 7, 2008



JOHN A. HOUSTON
United States District Judge

26

27

28

EXHIBIT COVER PAGE

A

EXHIBIT

Description of this Exhibit: *Exhausted Proof of Claims 1, 2, 4 and 6
Denials.*

Number of pages to this Exhibit: 5 pages.

JURISDICTION: (Check only one)

- Municipal Court
- Superior Court
- Appellate Court
- State Supreme Court
- United States District Court
- State Circuit Court
- United States Supreme Court
- Grand Jury

EXHIBIT-A
For Exhausted claim 1 and 2

COURT OF APPEAL - FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

F 1 L E
Stephen M. Kelly, Clerk D
JAN 22 2007

In re DARROW DEWANN HAYGOOD

D049464

Court of Appeal Fourth District

on

(San Diego County
Super. Ct. No. SCE229595)

Habeas Corpus.

THE COURT:

The petition for writ of habeas corpus has been read and considered by Justices Benke, Aaron, and Irion.

A jury convicted petitioner Darrow Dewann Haygood of two counts of residential robbery in concert. (Pen. Code,¹ §§ 211, 213, subd. (a)(1)(A).) The jury also found true a firearm use enhancement (§ 12022.53, subd. (b)) and a gang enhancement (§ 186.22, subd. (b)(1)). The trial court sentenced Haygood to 26 years in prison.

Haygood appealed the trial court's judgment.² Among the arguments raised in his appeal, Haygood claimed his trial counsel rendered ineffective assistance by failing to object to the lack of foundation for the gang expert's opinion and by failing to object to the admission of certain statements made by the investigating officer during a taped interview with Haygood. In reviewing this latter issue, we specifically noted that Haygood had been read his rights under *Miranda v. Arizona* (1966) 384 U.S. 436 before talking with the investigating officer. After finding only harmless instructional error, we affirmed the trial court's judgment. (*People v. Haygood* (Jun. 22, 2004, D043134) [nonpub. opn.].)

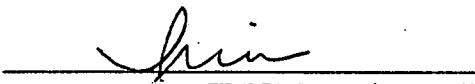
1 All statutory references are to the Penal Code unless otherwise specified.

2 We take judicial notice of the record on appeal.

In this petition, Haygood claims that his trial counsel rendered ineffective assistance of counsel by failing to investigate and object to the admission of any portion of the taped interview because Haygood had not been read his *Miranda* rights prior to the interview. Haygood further claims that his appellate counsel rendered ineffective assistance by failing to assert this aspect of trial counsel's ineffectiveness on appeal.

We conclude that Haygood has failed to state a *prima facie* case for relief. (*People v. Duvall* (1995) 9 Cal.4th 464, 474-475.) As indicated above, this court specifically noted in its decision on appeal that Haygood had been read his *Miranda* rights prior to being interviewed by the investigating officer. This fact is substantiated by the trial testimony of the investigating officer, who was specifically asked whether he had advised Haygood of his *Miranda* rights and about the details of the advisement. Moreover, after the investigating officer's testimony, Haygood testified at length about the interview and never once indicated or even suggested he had not been properly advised of his *Miranda* rights beforehand. Although Haygood submitted a declaration with this petition stating he was never read his *Miranda* rights, a defendant's self-serving declaration is not sufficient to state a *prima facie* case for relief. (See, e.g., *In re Alvernaz* (1992) 2 Cal.4th 924, 938.)

The petition is denied.



IRION, Acting P. J.

Copies to: All parties

S155796

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re DARROW HAYGOOD on Habeas Corpus

The petition for writ of habeas corpus is denied.

SUPREME COURT
FILED

FEB 13 2008

Frederick K. Ohlrich Clerk

Deputy

GEORGE
Chief Justice

Court of Appeal, Fourth Appellate District, Division One - No. D043134
S136036

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

DARROW DEWANN HAYGOOD, Defendant and Appellant.

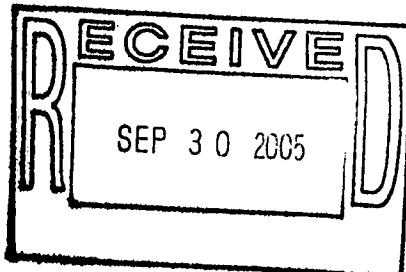
Petition for review DENIED.

**SUPREME COURT
FILED**

SEP 28 2005

Frederick K. Ohlrich Clerk

DEPUTY



GEORGE
Chief Justice

Supreme Court No. _____

Exhibit-A
for Exhausted Claim 4 and 6

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,)	Court of Appeal No. D043134
)	Superior Court No. SCE229595
Plaintiff-Respondent,)	
)	
v.)	
DARROW DEWANN HAYGOOD,)	
)	
Defendant-Appellant.)	
)	

**APPEAL FROM THE SUPERIOR COURT
OF SAN DIEGO COUNTY
HONORABLE LOUIS R. HANOIAN, JUDGE**

**PETITION FOR REVIEW IN THE SUPREME COURT
AFTER THE UNPUBLISHED DECISION OF THE COURT
OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION ONE,
AFFIRMING THE JUDGMENT OF CONVICTION**

ROBERT E. BOYCE
State Bar No. 79806
BOYCE & SCHAEFER
934 23rd Street
San Diego, CA 92102-1914
(619) 232-3320

Attorneys for Defendant-Petitioner
DARROW DEWANN HAYGOOD

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Certificate of Word Count

Proof of Service

APPENDIX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIANOTICE OF DOCUMENT DISCREPANCIES

FILED

2008 JUN 11 AM 10:49

TO: U. S. DISTRICT JUDGE / U. S. MAGISTRATE JUDGE
FROM: R. Mullin, Deputy ClerkCLERK US DISTRICT COURT
HOU
DISTRICT OF CALIFORNIARECEIVED DATE: 6/6/2008
BY R.M. DEPUTYCASE NO.: 08cv0374 JAH (BLM) DOCUMENT FILED BY:

Petitioner

CASE TITLE: Haygood v. Knowles, et alDOCUMENT ENTITLED: Objections to Report and Recommendation

Upon the submission of the attached document(s), the following discrepancies are noted:

<input checked="" type="checkbox"/> Local Rule	Discrepancy
<input type="checkbox"/> 5.1	Missing time and date on motion and/or supporting documentation
<input type="checkbox"/> 5.3	Document illegible or submitted on thermal facsimile paper
<input type="checkbox"/> 5.4	Document not filed electronically. Notice of Noncompliance already issued.
<input type="checkbox"/> 7.1 or 47.1	Date noticed for hearing not in compliance with rules/Document(s) are not timely
<input type="checkbox"/> 7.1 or 47.1	Lacking memorandum of points and authorities in support as a separate document
<input type="checkbox"/> 7.1 or 47.1	Briefs or memoranda exceed length restrictions
<input type="checkbox"/> 7.1	Missing table of contents
<input type="checkbox"/> 15.1	Amended pleading not complete in itself
<input type="checkbox"/> 30.1	Depositions not accepted absent a court order
<input type="checkbox"/>	Supplemental documents require court order
<input type="checkbox"/>	Default Judgment in sum certain includes calculated interest
X	<u>OTHER: No original signature.</u>

Date forwarded: 6/9/2008ORDER OF THE JUDGE / MAGISTRATE JUDGE

IT IS HEREBY ORDERED:

The document is to be filed nunc pro tunc to date received.

The document is NOT to be filed, but instead REJECTED. and it is ORDERED that the Clerk serve a copy of this order on all parties.

Rejected document to be returned to pro se or inmate? Yes. Court Copy retained by chambers
 * Petitioner may re-file his objections (with signature) on or before June 30, 2008
 Counsel is advised that any further failure to comply with the Local Rules may lead to penalties pursuant to Local Rule 83.1

CHAMBERS OF: HoustonDated: 6/9/08By: C. Hill

cc: All Parties